

Appl. No. 10/065,486
Docket No. 124695/GEM-0058

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REMARKS / ARGUMENTS

In the Advisory Action paper dated January 25, 2007, the Examiner states that the amendments made subsequent to the Final Action have not been entered. Page-1, Section-3. As such, the Listing of Claims set forth above are in relation to the state of the claims just prior to the Final Action.

Status of Claims

Claims 1-17 and 21-28 are pending in the application and stand rejected. Applicant has amended Claims 1, 9, 15, 21 and 24, and has added new Claim 29, leaving Claims 1-17 and 21-29 for consideration upon entry of the present Amendment.

Applicant respectfully submits that the rejections under 35 U.S.C. §102(e) and 35 U.S.C. §103(a) have been traversed, that no new matter has been entered, and that the application is in condition for allowance.

Rejections Under 35 U.S.C. §102(e)

Claims 1, 3, 4, 6, 7, 9, 11-15, 21, 24, 26 and 27 stand rejected under 35 U.S.C. §102(e) as being anticipated by Barni (U.S. Patent No. 6,473,634, hereinafter Barni).

Applicant traverses this rejection for the following reasons.

Applicant respectfully submits that "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, *in a single prior art reference.*" *Verdegaal Bros. V. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987) (emphasis added). Moreover, "[t]he identical invention must be shown in as complete detail as is contained in the *** claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Furthermore, the single source must disclose all of the claimed elements "arranged as in the claim." *Structural Rubber Prods. Co. v. Park Rubber Co.*, 749 F.2d 707, 716, 223 U.S.P.Q. 1264, 1271 (Fed. Cir. 1984). Missing elements may not be supplied by the knowledge of one skilled in the art or the disclosure of another reference.

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Titanium Metals Corp. v. Banner, 778 F.2d 775, 780, 227 U.S.P.Q. 773, 777 (Fed. Cir. 1985).

Applicant has amended independent Claims 1, 9, 15, 21 and 24 to now include limitations directed to:

“..processing said target area by subdividing said target area in the axial direction into multiples of an increment of the overall detector coverage in the axial direction so as to create a plurality of sub-target areas of interest...”.

No new matter has been added as antecedent support may be found in the application as originally filed, such as at Paragraph [0045] for example.

Dependent claims inherit all of the limitations of the respective parent claim.

In alleging anticipation, the Examiner remarks that “Barni (at col. 3, lines 51-54) discloses a method of subdivision of target areas into a plurality of smaller areas of interest, namely pixels or voxels.” Final Action, page 6.

Here, the Examiner broadly reads the claimed “sub-target areas” as being pixels or voxels.

Alternative to the Examiner’s reading, Barni (at col. 3, line 40-42) also discloses subdivision of medical images into two different temporal resolutions.

In respectful disagreement with the Examiner, Applicant submits that Barni does not disclose each and every element of the claimed invention arranged as claimed. More specifically, Applicant submits that Barni discloses subdivisions by pixels or temporal resolution, but does not disclose subdividing the target area in the axial direction into multiples of an increment of the overall detector coverage in the axial direction so as to create a plurality of sub-target areas of interest, as now claimed.

Furthermore, Applicant respectfully submits that subdivision by pixels of temporal resolution is substantially different from multiples of spatial subdivision in an axial direction.

In view of the amendments set forth above, Applicant submits that Barni does not disclose each and every element of the claimed invention arranged as claimed, and notes that the Examiner has already acknowledged that Barni discloses sub-target areas that are

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pixels, and not sub-target areas that are multiples of an increment of an overall detector coverage in an axial direction.

Accordingly, Applicant submits that Barni does not disclose all of the claimed elements arranged as in the claim, and absent anticipatory disclosure in Barni of each and every element of the claimed invention arranged as in the claim, Barni cannot be anticipatory.

In view of the amendment and foregoing remarks, Applicant submits that Barni does not disclose each and every element of the claimed invention arranged as claimed and therefore cannot be anticipatory. Accordingly, Applicant respectfully submits that the Examiner's rejection under 35 U.S.C. §102(e) has been traversed, and requests that the Examiner reconsider and withdraw of this rejection.

Rejections Under 35 U.S.C. §103(a)

Claims 2, 5, 10, 16 and 22 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Barni in view of General Electric Company (European Patent No. 1090586, hereinafter EP 1090586).

Claims 8, 17 and 23 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Barni in view of Shao et al. (U.S. Publication No. 2003/0233039, hereinafter Shao).

Claims 25 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barni in view of Hu et al. (U.S. Patent No. 6,073,041).

Applicant traverses these rejections for the following reasons.

Applicant respectfully submits that the obviousness rejection based on the References is improper as the References fail to teach or suggest each and every element of the instant invention in such a manner as to perform as the claimed invention performs. For an obviousness rejection to be proper, the Examiner must meet the burden of establishing a prima facie case of obviousness. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988). The Examiner must meet the burden of establishing that all elements of the invention are taught or suggested in the prior art. MPEP §2143.03.

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In view of the secondary references being applied to reject dependent claims, and in view of Applicants amendments set forth above to clarify the scope of the claimed invention, Applicant submits that the secondary references fail to teach or suggest the limitations of the now amended claims, and for at least this reason Applicant submits that the combination of references applied to reject the noted claims for obviousness fail to establish a prima facie case of obviousness and therefore cannot be properly applied to reject the noted claims.

In addition to the foregoing, Applicant finds no motivation or teaching in any of the References to modify a primary Reference in view of its respective secondary Reference to arrive at the claimed arrangement of elements without disturbing the two temporal resolutions and intended purpose of the art being modified, namely Barni.

In view of the foregoing, Applicant submits that the References fail to teach or suggest each and every element of the claimed invention and are therefore wholly inadequate in their teaching of the claimed invention as a whole, fail to motivate one skilled in the art to do what the patent Applicant has done, fail to offer any reasonable expectation of success in combining the References to perform as the claimed invention performs, fail to teach a modification to prior art that does not render the prior art being modified unsatisfactory for its intended purpose, and discloses a substantially different invention from the claimed invention, and therefore cannot properly be used to establish a prima facie case of obviousness. Accordingly, Applicant respectfully requests reconsideration and withdrawal of all rejections under 35 U.S.C. §103(a), which Applicant considers to be traversed.

In light of the foregoing remarks and amendments, Applicant respectfully submits that the Examiner's rejections under 35 U.S.C. §102(e) and 35 U.S.C. §103(a) have been traversed, and that the application is now in condition for allowance. Such action is therefore respectfully requested.

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Regarding New Claim 29

Applicant has added new Claim 29 to capture originally disclosed but unclaimed subject matter. No new matter has been added as antecedent support can be found in the originally filed application, such as at Paragraph [0045], for example. Applicant submits that Claim 29 is allowable at least for the reason that it depends from an allowable claim, and respectfully requests notice thereof.

The Commissioner is hereby authorized to charge any additional fees that may be required for this amendment, or credit any overpayment, to Deposit Account No. 07-0845.

In the event that an extension of time is required, or may be required in addition to that requested in a petition for extension of time, the Commissioner is requested to grant a petition for that extension of time that is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to the above-identified Deposit Account.

Respectfully submitted,
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